

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

**BRUSHY CREEK FAMILY
HOSPITAL, LLC,**
Plaintiff

VS

**BLUE CROSS AND BLUE SHIELD OF
TEXAS, A DIVISION OF HEALTH
CARE SERVICE CORPORATION;**
Defendant

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Case No. A-22-CV-00464-JRN

ORDER

Before the Court in the above-entitled cause of action is the Report and Recommendation of United States Magistrate Judge Susan Hightower regarding Defendant's Amended Opening Brief and Motion for Summary Judgment, filed November 30, 2023 (Dkt. 52), and the associated response and reply briefs. This Court referred this cause to the United States Magistrate Judge for findings and recommendations. The Magistrate Judge filed her Report and Recommendation on May 30, 2024. *See* Dkt. 77. After a careful and thorough review of the case and the applicable law, the Magistrate Judge recommends that this Court **GRANT** Defendant's Amended Opening Brief and Motion for Summary Judgment (Dkt. 52).


As noted, the Magistrate Judge issued her Report and Recommendation on May 30, 2024, and on the same date, both parties were served with copies of the Report and Recommendation by electronic means. The Magistrate Judge explicitly warned both parties in writing that a party's failure to file written objections within fourteen (14) days after being served with a copy of the Report and Recommendation, bars that party, except on grounds of plain error, from attacking on appeal the unobjected-to proposed factual findings and legal conclusions accepted by the district

court. Although Rule 72(b) of the Federal Rules of Civil Procedure requires parties to file objections within 14 days, Rule 6 extends this period by 3 days if service is *via* electronic means. *See* Fed. R. Civ. P. 6(d); *see also American Realty Trust, Inc. v. Matisse Partners*, No. Civ. A. 3:00–CV–1801, 2003 WL 22083516, at *1 n. 1 (N.D. Tex. 2003) (adding 3 days to the time period provided under Rule 72(b)). Accordingly, pursuant to 28 U.S.C. § 636(b), Rule 72(b), and Rule 6(d), the parties’ objections were due on or before June 17, 2024. However, as of the date of this Order’s issuance, the Court has yet to receive objections to the Magistrate’s Report and Recommendation. Consequently, the parties are not entitled to a *de novo* review by this Court. Having found no plain error, the Court will accept the Report and Recommendation of the Magistrate Judge for the reasons stated therein.

IT IS THEREFORE ORDERED that the Court hereby **ADOPTS** the Report and Recommendation that the United States Magistrate Judge has filed in this cause.

IT IS FURTHER ORDERED that Defendant’s Amended Opening Brief and Motion for Summary Judgment (Dkt. 52), is **GRANTED** and this case is **closed**.

SIGNED this 20th day of June, 2024.



JAMES R. NOWLIN
SENIOR U.S. DISTRICT JUDGE